

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|   |   |                                    |
|---|---|------------------------------------|
| ALEX BELL,                              | ) |                                    |
|   | ) | Civil Action No. 17 – 117J         |
| Petitioner,                             | ) |                                    |
|   | ) |                                    |
| v.                                      | ) | District Judge Kim R. Gibson       |
|   | ) | Magistrate Judge Lisa Pupo Lenihan |
| TIMOTHY LITTLE, Unit Manager, <i>et</i> | ) |                                    |
| <i>al.</i> ,                            | ) |                                    |
|   | ) |                                    |
| Respondents.                            | ) |                                    |

**MEMORANDUM ORDER**

Plaintiff, Alex Bell, initiated the instant *pro se* prisoner civil rights action on July 5, 2017, and in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court, all pretrial matters were referred to United States Magistrate Judge Lisa Pupo Lenihan.

Plaintiff’s Complaint (ECF No. 4) was served on the Defendants, and the DOC Defendants, C.O. T.R. Arnold, Captain Acey, and Unit Manager Little, filed a Partial Motion to Dismiss for failure to state a claim on February 20, 2018 (ECF No. 29), to which Plaintiff responded in opposition on April 5, 2018 (ECF No. 36). On June 13, 2018, the Magistrate Judge issued a Report and Recommendation (“R&R”), recommending that the Partial Motion to Dismiss be granted in part and denied in part. (ECF No. 44.) Specifically, she recommended granting the Motion except to the extent it sought dismissal of Plaintiff’s failure to protect claim against Defendant Arnold. The R&R was served on the parties who had until July 2, 2018 to file written objections. Plaintiff filed Objections on June 28, 2018. (ECF No. 45.)

In resolving a party's objections, the Court conducts a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The Court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions. *Id.*

Plaintiff states that he does not object to the Court's granting in part and denying in part of the Partial Motion to Dismiss as recommended by the Magistrate Judge. Despite that, however, he argues why Defendant Arnold violated his Eighth Amendment right by failing to protect him during the incident in question. As specified by the R&R, the Magistrate Judge recommended that the Court deny the Partial Motion to Dismiss as to this claim. As such, there appears to be no part of the R&R to which Plaintiff properly objects. Therefore, after careful *de novo* review, the following Order is now entered.

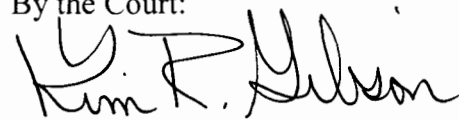
AND NOW, this 16<sup>th</sup> day of July, 2018;

**IT IS HEREBY ORDERED** that the R&R of the Magistrate Judge (ECF No. 44) is adopted as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Partial Motion to Dismiss filed by DOC Defendants Little, Captain Acey and T.R. Arnold (ECF No. 29) be denied to the extent that it seeks dismissal of Plaintiff's failure to protect claim against Defendant Arnold, and granted in all other respect.

**AND IT IS FURTHER ORDERED** that this case is remanded back to the Magistrate Judge for all other pretrial proceedings.

By the Court:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

Kim R. Gibson

United States District Judge

cc: Alex Bell  
MJ-5004  
SCI Houtzdale  
P.O. Box 1000  
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Counsel for Despondents  
(Via CM/ECF electronic mail)